IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.K.DENESAN

THURSDAY, THE 29TH MARCH 2007 / 8TH CHAITHRA 1929

WP(C).No. 10794 of 2007(I)

PETITIONER:

KAMALAKSHY K.,D/O LATE KUNHIRAMAN NAIR,
KUNHIRALAPPIL HOUSE, P.O.PERUMDHATHIL,
THALASSERY, KANNUR DISTRICT.

BY ADV. SRI.M.SASINDRAN
SRI.T.R.JAGADEESH

RESPONDENTS:

---

1. THE DIRECTOR OF HEALTH SERVICES,
THIRUVANANTHAPURAM.

2. THE ACCOUNTANT GENERAL,
OFFICE OF THE ACCOUNTANT GENERAL,
THIRUVANANTHAPURAM.

3. STATE OF KERALA-REPRESENTED BY
SECRETARY TO GOVERNMENT, DEPARTMENT OF HEALTH
SERVICES, SECRETARIAT, THIRUVANANTHAPURAM.

BY GOVT.PLEADER SRI.BIJOY CHANDRAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 29/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.K.DENESAN, J

W.P.(C)NO.10794 of 2007

Dated this the 29th day of March, 2007

JUDGMENT

The petitioner, on selection by the Public Service Commission as Pupil Nurse, was appointed as such in 1973. When she underwent the prescribed period of training, she filed an application before the respondents requesting to count the period of training for increments and for other service benefits. The first respondent considered the request of the petitioner along with similar requests made by three other employees belonging to the same category. At the time when the request was made, the petitioner and others similarly situated were working as Head Nurses. The first respondent passed Ext.P6 order rejecting the representations filed by the aforesaid persons stating that the training period will not count for increments or for service benefits since the petitioner and others were not drawing pay in a time scale of pay, but only a consolidated

amount as stipend. The relevant portion from Ext.P6 reads as follows:

> "As per rule, the training period will be reckoned for increment only if the trainee had drawn the scale of pay of the officiating post. In this case the individuals have given Rs.100/- p.m. as stipend during the training period and not in the time scale of Rs.285-550"

The above order was communicated to the petitioner as per Ext.P7. Copy of Ext.P7 produced in this writ petition is the one communicated to one Smt.Leela whose case also was dealt with along with that of the petitioner. The endorsement on Ext.P7 shows that it was passed on 17.11.1999. Now more than 7 years have lapsed since Ext.P7 has been issued and more than 30 years is over from the date the petitioner underwent the training. At this distance of time, the petitioner has thought of filing this writ petition pointing out the pendency of Ext.P9

representation dated 12.8.2002 addressed to the Accountant General.

3. The reliefs prayed for in this writ petition include a prayer to quash Ext.P7 and for a direction to the second respondent to consider Ext.P9. I am not inclined to entertain this writ petition. Even assuming that the petitioner has got tenable grounds to challenge Ext.P7, she cannot be allowed to do so at this distance of time. In fact, the order which she ought to have challenged is Ext.P6 and not Ext.P7. There is no challenge against Ext.P6 in this writ petition. The relief sought for pertains to some period during 1973. After the lapse of 30 years, it will not only be improper but also unjust and unreasonable to direct the respondents to re-determine matters which were decided long back. I find that the ground for rejection, namely, that the petitioner got only a stipend during the period of training and hence no question of counting that period for increments arises,

is neither illegal nor untenable. The petitioner is not entitled to the reliefs either on merits or on principles of equity. She is guilty of laches as the inordinate delay in filing this writ petition has not been explained at all. This writ petition is, therefore, dismissed in limine.

K.K.DENESAN, JUDGE

CSS

s